

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

DONALD D. SAMS,

Petitioner,

v.

No. 2:18-cv-01943-YY

TROY BOWSER,

OPINION AND ORDER

Respondent.

MOSMAN, J.,

On May 20, 2021, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (F. & R.) [ECF 38]. Judge You recommended that I deny the Amended Petition for Writ of Habeas Corpus [ECF 24], dismiss this case with prejudice, and decline to issue a certificate of appealability. Petitioner Donald D. Sams filed Objections [ECF 40]. Upon review, I ADOPT Judge You's F. & R. [ECF 38] and DISMISS this case with prejudice.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court


is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F. & R. depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F. & R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge You's findings and recommendation, and I ADOPT the F. & R. [ECF 38] as my own opinion. I DENY Petitioner's Petition for Writ of Habeas Corpus [ECF 24] and decline to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). The case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 12 day of August, 2021.


MICHAEL W. MOSMAN
United States District Judge